

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

VALANN R. ZITKO,

Complainant,

and

PASQUINELLI HOMES and ROSS BERNARD
and JAY VALENTINE,

Respondent.

CHARGE NO(S): 2006CA2481
EEOC NO(S): 21BA61353
ALS NO(S): 07-355

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

Entered this 7th day of January 2011

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

IN THE MATTER OF:

Complainant,

**PASQUINELLI HOMES and ROSS
BERNARD and JAY VALENTINE,
Respondents.**

ALS No.: 07-355

On May 18, 2007, Complainant, Valann R. Zitko, filed a complaint on her own behalf against Respondents, Pasquinelli Homes, Ross Bernard, and Jay Valentine. That complaint alleged that Respondents discriminated against Complainant on the bases of her age and her sex.

This matter now comes on to be heard on Respondents' Motion to Dismiss for Failure to Prosecute. Although she was served with a copy of the motion, Complainant has not responded to it and the time for such a response has passed. In addition, Complainant failed to appear at the hearing on the motion. The matter is ready for decision.

The Illinois Department of Human Rights is an additional statutory agency that has issued state actions in this matter. The Department is therefore named herein as an additional party of record.

The following facts were derived from the record file in this matter.

1. On August 20, 2009, all parties appeared for a scheduled status hearing. Complainant appeared *pro se* and Respondents appeared through counsel. A new status date was set for October 22, 2009 and Complainant was to seek counsel in the interim.

2. The October 22, 2009 status date was continued by agreement of the parties. The parties submitted an agreed order which scheduled a new status hearing for December 1, 2009.

3. Complainant did not appear at the scheduled status hearing on December 1, 2009. A new status date was set for February 2, 2010. Respondents' counsel served a copy of the December 1 order on Complainant.

4. Complainant did not appear at the scheduled February 2 status hearing. She did not contact the Commission's office or Respondents' counsel to explain her absence. Respondents' counsel was given leave to file a motion to dismiss and a hearing on that motion was set for March 2, 2010.

5. On February 10, 2010, Respondents filed their motion to dismiss and served that motion on Complainant.

6. Complainant did not file any written response to Respondents' motion.

7. Complainant did not appear on March 2, 2010 for the hearing on Respondents' motion and she did not file any motion to explain her absence.

CONCLUSIONS OF LAW

1. Complainant's failure to appear at scheduled status hearings has unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, the complaint in this matter should be dismissed with prejudice.

DISCUSSION

Complainant has not appeared to prosecute her case since August 20, 2009. Since that time, she has missed two consecutive scheduled status hearings. In addition, she and Respondents agreed to strike and reschedule a status hearing. Thus, it appears she was aware of her obligations to appear and knew at least one mechanism to move a date if

necessary. For the last few months, though, she has not appeared on her own behalf. Even a motion to dismiss failed to elicit a response. Complainant's inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned her claim. As a result, it is appropriate to dismiss her claim with prejudice. See ***Leonard and Solid Matter, Inc.***, IHRC, ALS Number 4942, August 25, 1992.

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 3, 2010